
(2005) 03 AHC CK 0265

Allahabad High Court

Case No: WT Reference No. 41 of 1981

Shyam Prakash

APPELLANT

Vs

Commissioner of Wealth Tax

RESPONDENT

Date of Decision: March 1, 2005

Citation: (2008) 303 ITR 172 : (2006) 152 TAXMAN 127

Hon'ble Judges: R.K. Agrawal, J; Prakash Krishna, J

Bench: Division Bench

Advocate: R.R. Kapoor, for the Appellant; A.N. Mahajan, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. The Income Tax Appellate Tribunal, Allahabad has referred the following questions of law u/s 27(3) of the Wealth-tax Act, 1957, hereinafter referred to as the Act for opinion to this Court:

1. Whether the Tribunal is legally justified in confirming the order of Wealth-tax Officer without considering the fact that the Wealth-tax Officer has not complied with the direction given by the AAC and has not given any details or basis for estimate?

2. Whether the Tribunal was legally correct in not considering the issue of deduction of value of house property u/s 5(1)(iv) where issue was specifically raised?

2. The Reference relates to the assessment years 1974-75 to 1977-78.

3. Briefly stated the facts giving rise to the present Reference are as follows:

The applicant has been assessed under the Act as an individual. The relevant valuation date was 31st March. Originally, the assessments were framed taking the net wealth at Rs. 2,00,000 for the assessment year 1974-75 and Rs. 2,50,000 for the assessment years 1975-76 to 1977-78. These assessments were set aside by the

Appellate Assistant Commissioner to be framed afresh. The Assessing Authority, thereafter issued notice u/s 16(2) of the Act in response to which the applicant's counsel attended. However, no details were furnished and, therefore, the Wealth-tax Officer repeated the original assessment in all the four years. Feeling aggrieved the applicant preferred separate appeals before the Appellate Assistant Commissioner who has upheld the order of the Assessing Authority on the following grounds :

Originally, the assessments were framed taking the net wealth at Rs. 2,00,000 for assessment year 1974-75 and Rs. 2,50,000 for assessment years, 1975-76, 1976-77 and 1977-78 each. These assessments were, however, set aside by the AAC to frame the assessments afresh. After giving opportunity to the appellant, the WTO has framed the assessment adopting the same figures of assessed wealth as originally determined by the WTO as the appellant failed to produce any details.

Still feeling aggrieved the appellant preferred an appeal before the Tribunal which has upheld the order of the Appellate Assistant Commissioner.

4. We have heard Sri R.R. Kapoor, learned Counsel for the applicant and Sri A.M. Mahajan, learned standing counsel for the revenue.

5. Learned counsel for the applicant submitted that the claim of deduction u/s 5(1)(iv) of the Act was raised before all the authorities and, therefore, incumbent upon them to adjudicate on the said issue.

6. After hearing the learned Counsel for the parties and perusal of the order passed by the Assessing Authority, Appellate Assistant Commissioner and the Tribunal, we find that the Assessing Authority had assessed the net wealth of the applicant, which implies that all deduction and exemption permissible under the Act have taken care of. We further find that the application had not provided any detail or particular of the house for which he has claimed exemption u/s 5(1)(iv) of the Act. In the absence of any effective finding the applicant has not been allowed to claim exemption u/s 5(1)(iv) of the Act. We are of the considered opinion that the authorities have not committed any illegality in not considering the said claim.

7. We, accordingly, answer the questions referred to us in the affirmative i.e., in favour of the revenue and against the assessee. However, there shall be no order as to costs.